IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 12272 of 2005

Between:

1 J. Narasimhulu, S/o. Ammathalli,
Chintada (V), Jami Mandal, Vizianagaram District.
2 D. Krishnamma, W/o. Mutyalu,
Chintada (V), Jami Mandal, Vizianagaram District.
3 E. Demudu, S/o. Lakshmana,
Chintada (V), Jami Mandal, Vizianagaram District.
4 D. China Demudu, S/o. Mutyalu,
Chintada (V), Jami Mandal, Vizianagaram District.
5 A. Rammurthy, S/o. Appalaswamy,
Chintada (V), Jami Mandal, Vizianagaram District.
6 A. Sanyasi Naidu, S/o. Demudu,
Chintada (V), Jami Mandal, Vizianagaram District.
7 D. Samudram, S/o. Sanni,
Chintada (V), Jami Mandal, Vizianagaram District.
8 P. Tatha, S/o. Appanna,
Chintada (V), Jami Mandal, Vizianagaram District.
9 D. Sanni Babu, S/o. Mutyalu,
Chintada (V), Jami Mandal, Vizianagaram District.
10 D. Visthu, S/o. Swami Naidu,
Chintada (V), Jami Mandal, Vizianagaram District.
11 K. Sanni Babu, S.o. Appanna,
Chintada (V), Jami Mandal, Vizianagaram District.

..... PETITIONERS

AND

1 The Commissioner of Endowments, Endowments Department, Hyderabad.
2 The Assistant Commissioner Endowments Department,
Vizianagaram District, Vizianagaram

3 Sri Mallikharjuna Swami Temple, rep by its Manager,
Chintada (V) Jami Mandal, Vizianagaram District.
4 Sri Mallikharjuna Swami Temple, rep by its Executive Officer,
Chintada (V) Jami Mandal, Vizianagaram District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus, declaring the action of the respondents in issuing notice No. 1/2005-1 dated 25-4-2005 by the 3rd respondent under Section 82(1) of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 is bad and illegal and violative of Article 14 of the constitution of India, consequently set aside the same by directing the respondents to continue the petitioners in their respective lands and pass such other order or orders as this Honourable court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner: MR.KURITIBHASKARA RAO

Counsel for the Respondent Nos.1 to 4: GP FOR ENDOWMENTS

The Court, at the stage of admission, made the following:

Oral order:-

The petitioners claims to be the cultivating tenants of Sri Mallikharjuna Swami Temple, Chintada village, Jami Mandal, Vizianagaram district, each of whom is cultivating small extents of land belonging to the said temple ranging from Ac. 0-04

gts., to Ac. 1-50 Gts., The earlier lease in their favour stood terminated by operation of Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 (Act. 30 of 1987) (for short 'the Act'). In the circumstances, the 3rd and 4th respondents have issued notice to the petitioners dated 25-04-2005 sensitizing them to the effect that the cancellation of their existing leases, directing them to handover possession of the lands leased in their favour earlier to the respondents-temples and intimating that should they fail to deliver back the possession, the petitioners would be evicted invoking the provisions under Sections 84, 85 and 86 of the Act treating them as encroachers in an order to be passed under Section 84 (3) of the Act. Aggrieved, the petitioners are before this court.

It requires to be noticed that the notice dated 25-04-2005 of the 3rd and 4th respondents *per se* do not determine the status of the petitioners as 'encroachers'. The termination of their existing lease is brought about by operation of law – Section 82 of the Act. The notice merely informs the petitioners to deliver back the possession failing which proceedings would be initiated against them under Section 83 (4), 84, 85 and 86 of the Act for their eviction. The petitioners claim to be landless poor having no other property except the agricultural lands leased out to them by the 3rd and 4th respondents-temples which are of small extents which entitles them to the benefits extended to landless poor persons under Section 82 (2) of the Act.

In the aforesaid circumstances, the writ petition is disposed of permitting the petitioners to submit a representation to the 2nd, 3rd and 4th respondents stating that the land holding of the petitioners either on ownership or cultivating tenant basis, which extent of holding would support the petitioners' claim being landless poor persons within the meaning of Explanation to Section 82 (2) of the Act. On such representation being made, the same would be considered by the aforesaid respondents before proceeding further to take action as stated in the impugned notice. The writ petition is disposed of as above, at the stage of admission. No costs.

GODA RAGHURAM, J

Dt. 13-06-2005

Pvks/*

Nb:- Furnish cc., in three days.

B/o pvks/*

To

1 The Commissioner of Endowments, Endowments Department, Hyderabad.
2 The Assistant Commissioner Endowments Department,
Vizianagaram District, Vizianagaram
3 The Manager, Sri Mallikharjuna Swami Temple,
Chintada (V) Jami Mandal, Vizianagaram District.
4 The Executive Officer, Sri Mallikharjuna Swami Temple,
Chintada (V) Jami Mandal, Vizianagaram District.

5. 2 CCs to the Government Pleader for Endowments, A.P. High Court

Buildings, Hyderabad (OUT).

6 2 CD copies

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